IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3588 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE JAYANT PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : YES

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

RAJNI SHYAMSUNDER SHRIVAS

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 3588 of 2002

MR JOY MATHEW for Petitioner No. 1

MS MANISHA SHAH, Ld. AGP for Respondent No. 1-3

MR VH DESAI for Respondent No. 4

CORAM : MR.JUSTICE JAYANT PATEL

Date of decision: 29/01/2003

ORAL JUDGEMENT

1. The short facts of the case are that the

petitioner is the wife of Shri Shyamsunder Shrivas, who expired on 25-11-2001. The husband of the petitioner was serving as teacher with respondent No.4 school. The petitioner applied for compassionate appointment on 22-1-2002 on the post of teacher. However, no actions were taken pursuant thereto and, therefore, this petition.

2. In this petition, Dr.J.G. Pathak, Education Inspector on behalf of the D.E.O., Ahmedabad City has filed the affidavit-in-reply and at para 5 it has been mentioned as under:

> "5. I say that as per the resolution dated 4.7.1988, the petitioner is not entitled to compassionate appointment as a teacher in place of her husband. I say that the respondent no.4 School has informed that no post of clerk is vacant in the said school. Therefore, also the petitioner can not get a compassionate appointment as a clerk in the school. Still, however, one post of Class IV employee is vacant for which a petitioner can apply through school for the said post."

The contention is that the petitioner is not entitled to compassionate appointment as a teacher in place of her husband and no post of clerk is vacant. It has also been submitted that one post of Class IV employee is vacant for which the petitioner can apply through the school.

3. Mr.Mathew, learned Counsel for the petitioner, submitted that though the petitioner was desirous of having compassionate appointment on the post of teacher, on account of the present status, the petitioner is ready to work as a Class IV employee (Sathi Sahayak) and he submits that if the petitioner is offered the said post of Class IV employee, which is vacant in the school, the petitioner would be satisfied.

4. On behalf of the respondent School authority, pursuant to the order dated 15-1-2003 passed by this Court, Ms.Sejal Sutaria appears and states that though the interviews are held for filling up the aforesaid two posts of Class IV cadre namely; Sathi Sahayak and the proposal is forwarded to the officer of the D.E.O., respondent No.4 School authority has no objection in giving appointment to the petitioner of Class IV cadre as Sathi Sahayak. However, she submitted that for the second post of Sathi Sahayak, the respondent may consider

the matter for grant of approval.

5. So far as the second post for which the proposal is pending before the D.E.O. is concerned, the same is not the subject matter of this petition and, therefore, no direction is called for at this stage. So far as the post in question of Sathi Sahayak of Class IV employee in respondent No.4 School over which, as per the affidavit filed on behalf of respondent authority, the appointment can be given to the petitioner, is the only subject matter of this petition.

6. In view of the aforesaid, I find that the following directions shall meet with the ends of justice:

6.1 The petitioner shall apply to respondent No.2 through respondent No.4 school for giving compassionate appointment on the post of Sathi Sahayak in respondent No.4 school within a period of one week from today.

6.2 If such application is made by the petitioner, respondent No.2 shall consider the application as per the statement made in the affidavit-in-reply and shall recommend/give approval for giving appointment on Class IV cadre of Sathi Sahayak in respondent No.4 School after verifying the other aspects in accordance with law. Such exercise shall be completed within a period of 15 days from the date of receipt of the application and the order shall be forwarded to respondent No.4.

6.3 Respondent No.4 shall offer compassionate appointment to the petitioner as stated above, within a period of one week from the date of receipt of order from the office of respondent No.2.

7. The petition is allowed in terms of the aforesaid directions. Rule is made absolute accordingly. Direct service is permitted.

29-1-2003 (Jayant Patel, J.)

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